

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

NEWFIELD EXPLORATION COMPANY §
§
Plaintiff, §
§
v. § CIVIL ACTION NO. G-05-306
§
M.V. MISS JULIE et al., §
§
Defendants. §

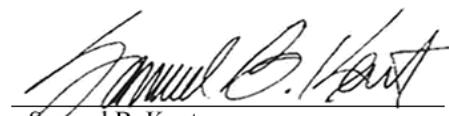
ORDER GRANTING PLAINTIFF'S MOTION TO DISMISS

Now before the Court is Plaintiff's Motion to Dismiss all claims without prejudice, which Defendant opposes. The Fifth Circuit has noted that the mere possibility of a second adjudication is not sufficient reason to deny a plaintiff's motion to dismiss. *See Elbaor v. Tripath Imaging Inc.*, 279 F.3d 314, 317 (5th Cir. 2002). However, Fed. R. Civ. P. 42(a)(2) also gives the Court power to impose conditions on the dismissal without prejudice. Accordingly, Plaintiff's Motion to Dismiss is **GRANTED**, and all claims previously asserted in this case are **DISMISSED WITHOUT PREJUDICE**. If Plaintiff refiles this suit, all discovery exchanged during the pendency of this action may be used in the future action. Plaintiff may not refile this case in this Court or in any state Court, removal from which would be properly had to this Court. Additionally, Plaintiff is assessed Defendants' taxable costs incurred herein to date. Such costs must be submitted by Defendants as a Bill of Costs, within 10 days of the date of this Order. Plaintiff has 10 days following submission to either pay the costs or contest the amount submitted by Defendants. All costs must be in strict compliance with 28 U.S.C. § 1920. A Final Judgment will be entered contemporaneously with this

Order.

IT IS SO ORDERED.

DONE this 9th day of December, 2005, at Galveston, Texas.



Samuel B. Kent
United States District Judge